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Oceans and the law of the sea

Letter dated 22 August 2002 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to write to you to transmit the attached copy of the note dated 8 August 2002 in which the Minister for Foreign Affairs of the Republic of Nicaragua replies to the letter (see annex) from Mr. Guillermo Pérez-Cadalso Arias, Minister for Foreign Affairs of the Republic of Honduras concerning the public announcement by the Nicaraguan authorities of future hydrocarbon concessions in areas under Nicaraguan jurisdiction.

I should be grateful if you would publish this communication as an official document of the General Assembly under item 25 of the provisional agenda of the fifty-seventh session.

(*Signed*) Eduardo J. **Sevilla Somoza**
Ambassador
Permanent Representative

* Reissued for technical reasons.

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Annex to the letter dated 22 August 2002 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General

I have the honour to acknowledge receipt of your letter of 30 July 2002, in which on behalf of the Government of the Republic of Honduras you send another note of protest, this time referring to the Pacific Ocean, prompted by the public announcement by the Nicaraguan authorities of future hydrocarbon concessions.

I should like in this respect to reiterate to you that the areas for which the Nicaraguan Energy Institute (INE) invited bids for petroleum exploration are located within the national territory of Nicaragua.

While rejecting on behalf of my Government each and every one of the allegations contained in your communication, I should like simply to reiterate that the Judgment of the International Court of Justice of 11 September 1992 was related to proceedings to which Nicaragua was not a party. In its Judgment of 13 September 1990, the Chamber of the Court clearly stated in paragraph 102 that:

> "the intervening State does not become party to the proceedings, and does not acquire the rights, or become subject to the obligations, which attach to the status of a party, under the Statute and Rules of Court ..." (*Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application to Intervene, Judgment, I.C.J. Reports 1990*, p. 92).

Later, in paragraph 424 of the Judgment of 11 September 1992, the Chamber concluded

> "that in the circumstances of the present case, this Judgment is not *res judicata* for Nicaragua" (*Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening), Judgment of 11 September 1992, I.C.J. Reports 1992*, p. 351).

On other occasions, Nicaragua has already expressly stated that the only legally demarcated border traditionally recognized by Nicaragua in the Gulf of Fonseca is the one established between Nicaragua and Honduras on the basis of the delimitation carried out by the Mixed Boundary Commission established by the Gámez-Bonilla Treaty, in 1900.

As for the judgment of 1917 of the Central American Court of Justice, I draw your attention to the fact that it does not envisage that Honduras has waters in the mouth of the Gulf of Fonseca.

(*Signed*) Norman **Caldera Cardenal**